

## **MINUTES**

### **INDIANA RESPIRATORY CARE COMMITTEE**

**OCTOBER 17, 2008**

#### **I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

Mr. Konkle called the meeting to order at 10:00 a.m. in Conference Center - Room 5, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana.

##### **Committee Members Present:**

Thomas Konkle, R.C.P., Chairman  
Sally Park-Teelon, R.C.P., Member  
Gary L. Smith, R.C.P., Member

##### **Committee Members Absent:**

Margaret Sullivan, Consumer Member

##### **State Officials Present:**

Cindy Vaught, Board Director, Professional Licensing Agency  
Kristine Yarde, Assistant Board Director, Professional Licensing Agency  
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

#### **II. ADOPTION OF THE AGENDA**

A motion was made and seconded to adopt the agenda, as amended.

PARK-TEELON/SMITH  
Motion carried 3-0-0

#### **III. ADOPTION OF THE MINUTES**

A motion was made and seconded to adopt the minutes from the July 18, 2008 meeting of the Committee.

KONKLE/PARK-TEELON  
Motion carried 3-0-0

#### **IV. APPEARANCES**

##### **A. APPLICATION**

##### **1. Richard E. Davis**

Mr. Davis appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Davis is a 1983 graduate of Georgia State University and has taken and passed the National Board for Respiratory Care examination on July 16, 1983. Mr. Davis holds an active license in the state of Pennsylvania and a lapsed license in the state of Georgia. On his application he answered "yes" to question #5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony, in any state?" He told the Committee in 2000 or 2001 he served one (1) year in jail because he was about \$20,000.00 behind on child support. He stated he was going through a difficult time and was being treated by a doctor with

sleep medication. Mr. Davis was on work release and one day he took the sleep medications prior to driving because he felt it would take a while to take effect. Mr. Davis told the Committee he fell asleep behind the wheel and hit a cement bridge abutment. He was charged driving under the influence of drugs. He stated his Georgia and Pennsylvania respiratory licenses were not affected by this incident and he currently enjoys working for Clarian. Mr. Davis does take an antidepressant but nothing that would impair his ability to perform his job.

**Committee Action:** A motion was made and seconded to grant Mr. Davis a respiratory license.

KONKLE/PARK-TEELON  
Motion carried 3-0-0

**2. Kory Russell Krider**

Mr. Krider appeared before the Committee, as requested, regarding his application for licensure by examination. Mr. Krider is a 2008 graduate of Ivy Tech Community College and passed the National Board for Respiratory Care (NBRC) examination on June 24, 2008. On his application he answered "yes" to question #4 asking, "Are you now being, or have you ever been treated for drug or alcohol abuse?" He also answered "yes" to question #5b asking, "Have you ever been convicted of, plead guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Mr. Krider told the Committee on March 17, 2006 he went out to a bar with friends and was cited for driving under the influence of alcohol. He completed a twelve (12) week alcohol course and one (1) year of probation. Mr. Krider has not been in trouble since that time and stated he does not drink alcohol anymore.

**Committee Action:** A motion was made and seconded to grant Mr. Krider a respiratory care license.

KONKLE/PARK-TEELON  
Motion carried 3-0-0

**3. Harold Jacob Mofield**

Mr. Mofield appeared before the Board, as requested, regarding his application for licensure by examination. Mr. Mofield was accompanied by counsel, Katherine Mofield. Mr. Mofield is a 2008 graduate of the Clarian Health and Affiliated University Program and has passed the National Board for Respiratory Care (NBRC) examination on May 19, 2008. On his application he answered "yes" to question #4 asking, "Are you now being, or have you ever been treated for drug or alcohol abuse?" He told the Committee there is a family history of alcoholism and in his early twenties he had issues with alcohol and was worried about the path he was taking. He had no instances with the law but in May of 2001 he voluntarily checked-in to a half way house for treatment. He has not had a drink in six (6) years.

**Committee Action:** A motion was made and seconded to grant Mr. Mofield a respiratory care license.

KONKLE/SMITH  
Motion carried 3-0-0

**4. Brianne L. Smith**

Ms. Smith appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Smith is a 2008 graduate from Concorde College and has passed the National Board for Respiratory Care (NBRC) on February 8, 2008. On her application she answered "yes" to question #5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony, in any state?" She told the Committee on December 5, 2006 she was out celebrating with friends in Colorado when she was arrested for a DUI. She pled guilty and completed community service, one (1) year of probation, an alcohol class, and a MADD panel. Ms. Smith submitted a letter from her probation officer attesting to what she said and a letter from her employer attesting to her good work.

**Committee Action:** A motion was made and seconded to grant Ms. Smith a respiratory care license.

KONKLE/PARK-TEELON  
Motion carried 3-0-0

**B. PROBATION**

**1. Charles A. Hodges**

Mr. Hodges appeared before the Committee, as requested, regarding his ongoing probationary status. The Committee found that he was up to date with his reports. He told the Committee during his time of suspension he worked putting on roofs and laying ceramic tile. He is now back to working night shift and things are going well. He asked the Committee about petitioning for a hearing to modify the terms of his probation order and the Committee suggested he show another quarter of compliance with the current order before petitioning.

**C. RENEWAL**

**V. ADMINISTRATIVE HEARINGS**

**A. State of Indiana v. James M. DeWitt R.C.P., License No. 30006818A**

Administrative Cause No. 2007 RCC 0007

Re: Order to Show Cause

**Parties and Counsel Present:**

Respondent was not present and was not represented by counsel  
Heather Kennedy, Deputy Attorney General for the State of Indiana  
Felicia Warren, Court Reporter

**Participating Committee Members:**

Mr. Konkle (Hearing Officer)  
Ms. Park-Teelon  
Mr. Smith

**Case Summary:** On August 1, 2008 the Committee issued an Order to Show Cause against the Respondent due to noncompliance with the probationary terms as set forth in the Committee's Decision Following Personal Appearance Order of June 5, 2007. Respondent has not submitted employer reports for the months of January and June 2008. Respondent is also required to keep the Committee apprised of his occupation title and work schedule, including the number of hours worked per week.

Since the Respondent failed to appear at this hearing the State asked the Committee to issue a Notice of Proposed Default.

**Committee Action:** A motion was made and seconded to issue a Notice of Proposed Default.

KONKLE/PARK-TEELON  
Motion carried 3-0-0

**B. State of Indiana v. Allen R. Harding, R.C.P., License No. 30004155A**  
Administrative Cause No. 2008 RCC 0005  
Re: Complaint

**Parties and Counsel Present:**

Respondent was present and was not represented by counsel  
Heather Kennedy, Deputy Attorney General for the State of Indiana  
Felicia Warren, Court Reporter

**Participating Committee Members:**

Mr. Konkle (Hearing Officer)  
Ms. Park-Teelon  
Mr. Smith

**Case Summary:** On July 14, 2008 the Office of the Attorney General filed a complaint against the Respondent alleging that on or about June 13, 2001, Respondent began employment at Respiratory Services and Solutions, LLC ("R.S.S.") located in Fishers, Indiana. On or about August 22, 2005, Respondent's employment with R.S.S. was terminated due to insubordination and detriment to the continuance of a client/customer relationship. Respondent was directed not to return to Especially Kidz, Liberty Village, Willowbend, any Hoosier Enterprise, or R.S.S. business site. On or about November 28, 2006, Respondent renewed his Indiana R.C.P. license and answered "No" to all questions including number five (#5) which asks, "Since you last renewed, have you been denied staff membership or privileges in any hospital or health care facility or have staff membership or privileges been revoked, suspended or subject to any restriction, probation, or other type of discipline?" The State intended to prove that Respondent violated Indiana Code § 25-1-9-4(a)(1)(A) in that the Respondent engaged in or knowingly cooperated in material deception in order to obtain a license to practice as evidenced by his failure to disclose his termination from R.S.S. on his 2006 Indiana license renewal. The Respondent testified that he had been unsatisfied with certain practices taking place at his employment and he alerted the administration to what he believed was negligence concerning the treatment of a child. He stated his supervisor was displeased he went to the administration and told him not to do that. The Respondent testified that on May 11, 2005 he submitted a letter of resignation to R.S.S. because he did not want to be involved with any negligence. Respondent entered into evidence exhibit "#1" which is a handwritten and signed statement dated May 11, 2005 giving his two weeks notice to R.S.S. He told the Committee that they did not want to accept his resignation because he was a good therapist but a month later they moved him to another facility because they were upset he was spending time there on his days off. The Respondent testified that on August 21, 2005 he visited a child patient on his day off and when he learned they were upset about it he submitted a second resignation letter after being confronted by his supervisor and termination was discussed. The State entered into evidence exhibit "A" which is a letter dated August 22, 2005 sent to the Respondent by certified mail, which he signed for. The letter was written by his supervisor at R.S.S. advising the

Respondent that his services will no longer be required. The Respondent testified that he signed for the letter but he thought he was signing for his paycheck. Respondent said he did not know what was meant in the letter because he had submitted his resignation and when he tried to call R.S.S. they had changed their phone number. The Respondent entered into evidence exhibit "#2" which is a handwritten resignation letter dated August 23, 2005 which the Respondent faxed to his supervisor. The State entered into evidence exhibit "B" which is a copy of the Respondent's online renewal showing that he answered "No" to all the questions. The Respondent stated he answered "No" because he had turned in his resignation. The State entered into evidence exhibit "C" which is a handwritten letter from the Respondent to his former supervisor dated August 31, 2005. The State noted in the letter the Respondent is admitting to being fired from R.S.S. and expressing his displeasure about the circumstances which led to his termination. The Respondent said he did recall writing the letter but was upset they had terminated him when he had already resigned. The Respondent admitted he probably should have answered "Yes" on the renewal application and may have misinterpreted how to handle the situation. He thought he would go ahead and renew the license and just explain everything later. The Respondent told the Committee he hired an attorney to write a letter to R.S.S. asking them to accept his letter of resignation in lieu of termination and in return he will not pursue action regarding how he was treated by the staff while employed by R.S.S. Respondent entered into evidence exhibit "#3" which is a typed letter on letterhead from the Respondent's attorney to R.S.S. The State noted an objection to the letter because it is not signed by the attorney and there is no proof the letter was actually mailed to R.S.S. The Respondent stated the letter was not ultimately mailed because the day the attorney wrote it he said he got a call from R.S.S. telling him they would accept his resignation in lieu of termination so it was no longer necessary to mail it. Respondent entered into evidence exhibit "#4" which is a letter from his former night supervisor attesting to the Respondent's good work and behavior. The State noted an objection to the letter because it was not signed by the supervisor. The Respondent entered into evidence exhibit "#5" which is a letter from the parents of a child who the Respondent took care of at Especially Kidz. The letter expressed gratitude about the bond and care the Respondent provided to their child. The State noted an objection to the letter because it was not signed. Respondent said he called the parents and his former supervisor to ask them to write the letters and they mailed them to him.

**Committee Action:** After consideration of the testimony and evidence presented, a motion was made and seconded to issue a Letter of Reprimand and Order the Respondent to pay a FINE in the amount of one-hundred dollars (\$100.00) within sixty (60) days of the Final Order.

KONKLE/PARK-TEELON  
Motion carried 3-0-0

- C. **State of Indiana v. Cheryl A. Lancaster, R.C.P., License No. 30004210A**  
Administrative Cause No. 2008 RCC 0007  
Re: Complaint

**Parties and Counsel Present:**

Respondent was not present and was not represented by Counsel  
Heather Kennedy, Deputy Attorney General for the State of Indiana  
Felicia Warren, Court Reporter

**Participating Committee Members:**

Mr. Konkle (Hearing Officer but will abstain from voting)  
Ms. Park-Teelon  
Mr. Smith

**Case Summary:** Since the Respondent failed to appear at this hearing in person or by Counsel the States asked the Committee to issue a Notice of Proposed Default.

**Committee Action:** A motion was made and seconded to issue a Notice of Proposed Default.

PARK-TEELON/SMITH  
Motion carried 2-0-1  
Mr. Konkle abstained

**D. State of Indiana v. Linda Pettigrew, R.C.P., License No. 30004407A**  
Administrative Cause No. 2008 RCC 0004  
Re: Complaint

**Parties and Counsel Present:**

Respondent was not present and was not represented by Counsel  
Heather Kennedy, Deputy Attorney General for the State of Indiana  
Felicia Warren, Court Reporter

**Participating Committee Members:**

Mr. Konkle (Hearing Officer)  
Ms. Park-Teelon  
Mr. Smith

**Case Summary:** Since the Respondent failed to appear at this hearing in person or by Counsel the States asked the Committee to issue a Notice of Proposed Default.

**Committee Action:** A motion was made and seconded to issue a Notice of Proposed Default.

KONKLE/SMITH  
Motion carried 3-0-0

**VII. NOTICE OF PROPOSED DEFAULT/DISMISSAL**

**A. State of Indiana v. William M. Nichols, R.C.P., License No. 30003555A**  
Administrative Cause No. 2007 RCC 0004

**Parties and Counsel Present:**

Respondent was not present and was not represented by Counsel  
Heather Kennedy, Deputy Attorney General for the State of Indiana  
Felicia Warren, Court Reporter

**Participating Committee Members:**

Mr. Konkle (Hearing Officer)  
Ms. Park-Teelon  
Mr. Smith

**Case Summary:** The State asked the Committee to find the Respondent in default because he is absent from the hearing.

**Committee Action:** A motion was made and seconded to find the Respondent in default.

KONKLE/SMITH  
Motion carried 2-0-1  
Ms. Park-Teelon abstained

The State reviewed with the Committee the facts alleged in the complaint which resulted in three (3) counts being charged against the Respondent by the Attorney General's Office. On January 2, 2007 the Respondent's home was searched by police responding to a call to his residence made by the Respondent's estranged wife. The search discovered eighty (80) grams of marijuana found in the Respondent's garage. Inside the Respondent's home the officers located a Biohazard container used to collect urine samples sitting in plain view on a shelf. The container had one hundred and three (103) pills mainly marked legend drugs but also a schedule II controlled substance mixed into a bottle of liquid. The Respondent told officers he worked as a respiratory therapist at several hospitals and he would pick up pills he found on the floor to keep them from getting in the wrong hands. On March 25, 2007 Respondent was arrested for Operating a Vehicle While Intoxicated. Charges were filed on the same date for Endangerment a Class A misdemeanor, OWVI, a Class C misdemeanor, and public intoxication, a Class B misdemeanor. Forty-eight (48) hours after being released from jail for the March 25<sup>th</sup> arrest, Respondent was arrested again on April 9, 2007 for endangerment and OWVI, both Class A misdemeanors. On or about May 12, 2007 the Department of Veterans Affairs terminated his position at the VA Medical Center in Indianapolis, Indiana. The reason given for the discharge was AWOL and license suspension. Respondent's respiratory care practitioner's license was summarily suspended by the Respiratory Care Committee on May 2, 2007. The State informed the Committee they do not know where the Respondent is now.

**Committee Action:** A motion was made and seconded to Indefinitely Suspend the Respondent's respiratory license for ninety-nine (99) years and he was further ordered to pay a FINE in the amount of three thousand dollars (\$3,000.00)

KONKLE/SMITH  
Motion carried 2-0-1  
Ms. Park-Teelon abstained

#### **VIII. VOLUNTARY SURRENDER OF LICENSE**

There were voluntary surrenders before the Committee.

#### **IX. SETTLEMENT AGREEMENTS**

There were no settlement agreements.

#### **X. OLD/NEW BUSINESS**

There was no old/new business.

#### **XI. DISCUSSION**

**A. Sharron Trigg, R.C.P., License No. 30003375A**

Re: Request for Continuing Education Approval for License Renewal

Ms. Trigg's respiratory care license expired December 31, 2006 and she would like to renew it. She was required to submit copies of fifteen (15) hours of continuing education and she submitted five (5) hours of approved continuing education and then asked for credit for business courses she has taken at North Central College. It was explained to her by the IPLA staff that although the courses were taken by an approved sponsor they do not relate to the practice of respiratory care. Ms. Trigg requested the Committee review her transcripts and issue an opinion about whether or not they are acceptable for credit. The Committee did as Ms. Trigg asked and reviewed the transcripts.

**Committee Action:** A motion was made and seconded to deny the business courses taken at North Central College for continuing education credit.

KONKLE/PARK-TEELON

Motion carried 3-0-0

**B. Kelly Hargrave, R.C.P., License No. 3000621A**

Re: Request for Continuing Education Approval

Ms. Hargrave wrote to the Board requesting credit for college courses she has taken to obtain her Bachelor's degree in Respiratory Therapy at Bellarmine University. The Board advised if she is chosen in the audit she will need to submit an official transcript.

**Committee Action:** A motion was made and seconded to accept the courses which pertain to respiratory care and if it is a three (3) hour course then three (3) hours of credit is to be given.

KONKLE/PARK-TEELON

Motion carried 3-0-0

**C. Ms. Park-Teelon reviewed topics that were discussed at the NBRC and AARC meeting held on September 12-13, 2008 in Olathe, Kansas.**

- Background checks for applicants
- Defaulting on student loans as a disciplinary offense
- RRT eligibility time limit- must pass RRT within three years of graduation
- Allowing students to take the CRT 30 days prior to graduation but results will not be given until after graduation
- Examination content changing on CRT and RRT
- Will no longer accredit CRT schools in a couple of years but no mention of doing away with CRT examination
- A lot of discussion about sleep technology

**XII. APPLICATION REVIEW**

**A. Endorsement**

**1. Terrill J. Gibbs**

The Committee reviewed Mr. Gibbs application file by endorsement. Mr. Gibbs attended Sinclair community College and passed the National Board



for Respiratory Care (NBRC) examination on November 12, 1983. Mr. Gibbs holds an expired license in the state of Ohio where he was grandfathered in. Mr. Gibbs attended classes in the mid 1970's and took courses which would qualify him to take the NBRC examination. Under IC 25-34.5-2-11(b) it states that in order for the Committee to waive the educational requirements he must have actively engaged in the practice of respiratory care that includes actual patient care in another jurisdiction, under the supervision of a physician licensed in that jurisdiction and for least ten (10) or the previous fifteen (15) years preceding the date of application. Based upon his employment history Mr. Gibbs has not practiced respiratory care 10 of the previous 15 years or meets the educational requirement.

**Committee Action:** A motion was made and seconded to deny Mr. Gibbs' application for respiratory care licensure.

PARK-TEELON/SMITH  
Motion carried 3-0-0

## **2. Victor Sholar**

The Committee reviewed Mr. Sholar's application file by endorsement. Mr. Sholar received on the job training at Barnes Hospital located in St. Louis, Missouri. Based upon his application file he has not taken and passed the National Board for Respiratory Care (NBRC) examination. Mr. Sholar is currently licensed in Missouri and holds a lapsed/expired license in the states of Georgia and California. Per his employment history Mr. Sholar has work in respiratory care since 1981.

**Committee Action:** A motion was made and seconded to deny Mr. Sholar's application for respiratory care licensure.

PARK-TEELON/SMITH  
Motion carried 3-0-0

### **B. Examination**

There were no examination applications to review.

### **C. Credentials**

There were no credential applications to review.

### **D. Temporary Permits**

There were no temporary permits to review.

### **E. Student Permits**

There were no student permits to review.

## **XII. PROBATIONARY REPORT**

- Rachel Smith** – Ms. Vaught informed the Committee she received a favorable report from Ms. Smith's supervisor. On October 15, 2008 a request from Ms. Smith was received requesting a hearing to modify or withdraw her Probation Order. Ms. Smith advised she cannot attend the required three (3) AA meetings per week due to taking care of a special needs child and working. The Committee asked Ms. Vaught to call her for two (2) random drug screens before the next meeting and schedule a hearing for January 23, 2009.

2. **Stephen Aponte** – On September 23, 2008 Mr. Aponte was sent a letter requesting his quarterly reports for July and October 2008 from his employer and AA/NA meeting attendance. Mr. Aponte called and stated that he has not attended any AA/NA meetings since September because he returned to school and would like his Probation Order to be modified. The Committee requested that an Order to Show Cause be issued for noncompliance of his probationary terms. The hearing will be set for the January 23, 2009 meeting.

### **XIII. CONTINUING EDUCATION**

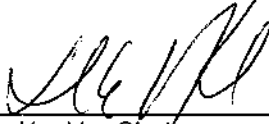
There was no continuing education for review.

### **XIV. OTHER ITEMS FOR CONSIDERATION**

1. There was a discussion between the Committee and members of the audience regarding student permits. The audience expressed disagreement that a new application and \$25.00 fee should be paid in cases where the supervisor changes at the hospital. They argued it is not the student's fault that this occurs and they should not have to pay another fee. Advisory counsel Liz Brown will look into this issue for the next meeting.
2. The audience members also asked the Committee to consider updating and defining some of the procedures on the student permit applications. They said that the list may be interpreted differently at certain hospitals and students are performing tasks they should not be. The Committee suggested they submit a draft of the changes they are proposing.

### **XV. ADJOURNMENT**

There being no further business, and having completed its duties, the meeting of the Committee adjourned at 1:00 p.m.

  
\_\_\_\_\_  
Thomas Konkle, Chairman

  
\_\_\_\_\_  
Date